

North Carolina Task Force for Offshore Renewable Energy Development

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What is the Authority for Establishing and Operating a State Task Force?

The Outer Continental Shelf (OCS) Lands Act, as amended by the Energy Policy Act in 2005, directs the Secretary of the Department of the Interior (DOI) to “provide for coordination and consultation with the Governor of any State or the executive of any local government that may be affected by a lease, easement, or right-of-way” for energy-related purposes in the OCS (43 USC 1337(p)(7)).

The Bureau of Ocean Energy Management (BOEM) codified the directive in 30 CFR 585.102(e), wherein it states that BOEM

will provide for coordination and consultation with the Governor of any State, the executive of any local government, and executive of any Indian Tribe that may be affected by a lease, easement, or ROW under this subsection. *BOEM may invite any affected State Governor, representative of an affected Indian Tribe, and affected local government executive to join in establishing a task force or other joint planning or coordination agreement in carrying out our responsibilities under this part [renewable energy and alternative uses of existing facilities on the OCS].* (emphasis added)

Finally, BOEM may convene and support its task forces as needs arise without being subject to the Federal Advisory Committee Act (FACA) under an exemption provided in the Unfunded Mandates Reform Act (2 USC 1534(b)). The exemption provides that FACA does not apply to actions in support of intergovernmental communications where

- (1) meetings are held exclusively between Federal officials and elected officers of State, local, and tribal governments (or their designated employees with authority to act on their behalf) acting in their official capacities; and
- (2) such meetings are solely for the purposes of exchanging views, information, or advice relating to the management or implementation of Federal programs established pursuant to public law that explicitly or inherently share intergovernmental responsibilities or administration.

History and General Overview of BOEM Task Forces

New Jersey and Delaware led the Atlantic states in their work on OCS renewable energy. As other states followed suit, those states asked BOEM for its assistance to help move their process forward in an organized way.

Much of the task force work takes place early in the OCS leasing process, particularly when BOEM delineates planning areas for further consideration. Some coastal states take a lot of initiative in the process and engage with stakeholders, some do not. Typically, the bulk of the work and meetings are conducting during the planning and analysis (pre-lease) stage with continued monitoring of the process until draft project proposals are submitted.

All task force meetings are open to the public and anyone may attend. Only those people who are appointed to a task force may participate in the meeting and represent their state.

Why Reinstate the North Carolina Task Force Now?

The Kitty Hawk lease has been executed and BOEM recommends that North Carolina convene its Task Force to stay apprised of the issues and activities surrounding the lease and any proposals submitted by the lease holder, Avengrid Renewables. Reinstating the NC Task Force affords the State an opportunity to submit plans, identify issues, provide for process orientation and engagement, and information sharing with BOEM and the lessee. Reinstating the NC Task Force also allows North Carolina to formally participate in and comment on offshore proposals and activities that are underway in both Virginia and South Carolina that may directly impact the State.

The Virginia Task Force is meeting on December 7, 2017, and has invited representatives from North Carolina to participate in the meeting (Hampton Roads area). In October, BOEM approved the Site Assessment Plan for the Virginia Wind Energy Area (WEA) off the coast of Virginia Beach. The Plan details the methods and procedures that Dominion Power will use to collect and analyze meteorological data and information on the conditions of the marine environment within the Commercial Lease. The SAP approval allows for the installation of a WindSentinel™, a floating light detection and ranging (LiDAR) buoy.

Because wind turbines located in the Virginia WEA could pose viewshed concerns and result in other impacts on North Carolina interests, BOEM contacted NC Department of Environmental Quality staff to encourage the state to reinstate the Task Force so that North Carolina has an official seat at the table at the meeting in Virginia. Without a formal designation of a Point of Contact and recommended members of the Task Force, representatives from North Carolina may attend this meeting, but will not be allowed to participate. BOEM has invited local officials representing every North Carolina local government along the coast from Duck to Brunswick County to attend the Virginia meeting as well as staff from federal agencies.

Explain the Difference Between the Work of the NC Task Force and the Need for a Separate NC/SC Steering Committee?

Ostensibly, the NC Task Force would be reinstated to allow the State to participate in the whole of the leasing authorization process and provide State representatives a seat at the table as North Carolina's OCS lease(s) are executed. The OCS renewable energy authorization process is estimated to take approximately 10 years and is comprised of the following four steps: planning and analysis (2 years); leasing (1-2 years); site assessment (5 years); and construction & operations (2 years). The Kitty Hawk lease is presently in the site assessment phase and there are additional planning areas under consideration for leasing. Standing up the NC Task Force gives North Carolina a voice early in the leasing process, provides a venue for the state to identify concerns or recommend mitigating factors, and ask informed questions. While BOEM makes final decisions, North Carolina's Task Force and its members would have the opportunity to help inform those final decisions and offer alternatives for the benefit of the State.

In addition, the NC Task Force representatives would be able to participate in the OCS activities of neighboring states that, due to the proximate location of some of the planning areas to our State's shores, may impact North Carolina.

The two planning areas located off the North Carolina's southern coast (Wilmington East and Wilmington West) and the planning area off South Carolina's northern coast (Grand Strand) have generated substantial viewshed concerns from citizens on Bald Head Island and Sunset Beach. Those who have communicated to BOEM are concerned about impacts to coastal tourism, particularly dark sky tourism. It is my understanding that BOEM has not been able to address these concerns to the Bureau's satisfaction and attempts to further engage these communities, as the Bureau does for all planning areas, have fallen short.

As a result, BOEM contracted with Consensus Builders Inc (CBI), to assist the Bureau in resolving the stakeholders' viewshed concerns where previous efforts were unsuccessful. CBI's work is limited only to the resolution of the viewshed concerns surrounding the Wilmington and Grand Strand planning areas. Unlike the state Task Force which has jurisdiction over and a role during the whole OCS leasing process, CBI and its Steering Committee are addressing only the unresolved viewshed issue. In short, the main difference between the work of the Task Force and the Steering Committee is in the scope and role of each entity.

Additional Information/BOEM Point of Contact

A copy of the original charter (2009) for the North Carolina Task Force is attached. Keep in mind that in the intervening years, agency names have changed, etc.

If you have additional questions about the role and value of the Task Force, please contact Will Waskes, Oceanographer, in the BOEM Office of Renewable Energy Programs and the BOEM staff person who is assigned to

the North Carolina Task Force. He may be reached phone at: 703-787-1287 or email: [HYPERLINK "mailto:will.waskes@boem.gov" \t "_blank"].